

**EXPLANATORY MEMORANDUM TO**  
**THE JUDICIAL PENSIONS (AMENDMENT) REGULATIONS (NORTHERN**  
**IRELAND) 2022**

**S.R. 2022 No 73**

**1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice (DoJ) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under the Public Service Pensions Act (Northern Ireland) 2014 (the Act) and is subject to the negative resolution procedure.
- 1.3. The Assembly procedure for making these Regulations would ordinarily be by the draft affirmative procedure. However, the Public Service Pensions (Northern Ireland) Act 2014 under which the regulations are made allows the use of the negative procedure if the Pension Board for that scheme has stated that it considers the Regulations to be “minor or wholly beneficial”. The Department has obtained the agreement of the Northern Ireland Judicial Pension Scheme Pension Board that the proposed amending regulations are “minor or wholly beneficial”. Consequently, the Department intends to make the amending Regulations by the negative procedure.

**2. Purpose**

- 2.1. The Statutory Rule will amend the Judicial Pensions Regulations (Northern Ireland) 2015 (S.R. 2015 No. 76). The Judicial Pensions Regulations (Northern Ireland) 2015 (“the 2015 Regulations”) created a new Judicial Pension Scheme for eligible devolved judicial officer holders in Northern Ireland (mainly tribunals judiciary) which came into effect on 1 April 2015 (“the 2015 Scheme”).
- 2.2. In December 2018, the Court of Appeal in England and Wales in *McCloud v Ministry of Justice* determined that there was age discrimination present in the 2015 Judicial Pension Scheme in England and Wales (directly equivalent to the 2015 scheme in Northern Ireland), because older judges were afforded greater protections than younger judges since they were allowed to retain benefits in the pre-2015 predecessor pension scheme, whilst younger members were moved into the 2015 scheme from April 2015.
- 2.3. The Public Service Pensions and Judicial Offices Bill (“the Bill”) seeks to remedy this age discrimination and for judges, will facilitate the creation of a new United Kingdom wide pension scheme for eligible judiciary, including eligible members of the Northern Ireland devolved judiciary.
- 2.4. These Regulations support the provisions in the Bill by making amendments that are needed to the 2015 Scheme in light of the age

discrimination remedies in the Bill, including changes relating to partial retirement from the 2015 Scheme.

### **3. Background**

- 3.1. The provisions of these Regulations seek to maintain parity with amendments that the Ministry of Justice in England and Wales intends to make to its 2015 judicial pension scheme, which are contained in the draft Judicial Pensions Regulations 2022 (“the 2022 Regulations”).
- 3.2. It is considered necessary to ensure parity between the schemes so that the devolved tribunals judiciary enjoy the same treatment in relation to pension matters as their Northern Ireland courts colleagues (who are members of the England and Wales 2015 judicial pension scheme because their remuneration remains a matter for the Lord Chancellor to determine under Schedule 2 of the Northern Ireland Act 1998) as well as their GB judicial colleagues.

### **4. Consultation**

- 4.1 The Ministry of Justice carried out a formal consultation on proposals for these reforms between 23 July 2021 and 8 October 2021 with pension scheme members (including members of the 2015 Scheme) and judicial associations and bodies. The Department further contacted 2015 Scheme members in January 2022 and provided them with an opportunity to comment on the draft Regulations. The Department did not receive any responses.

### **5. Equality Impact**

- 5.1. The Department has concluded that the proposals do not have any adverse impact on any section 75 group and that an equality impact assessment is therefore not necessary.

### **6. Regulatory Impact**

- 6.1. There is no impact on business, charities, social economy enterprises or the voluntary sector. A regulatory impact assessment is not, therefore, necessary.

### **7. Financial Implications**

- 7.1. The proposed amendments are not anticipated to require additional Departmental funding.

### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. It is the view of the Department that the draft regulations are in compliance with section 24 of the Northern Ireland Act 1998.

### **9. EU Implications**

- 9.1. Not applicable.

### **10. Parity or Replicatory Measure**

- 10.1. The Regulations replicate those that the Ministry of Justice intend to make in relation to its equivalent pension scheme.

## **11. Additional Information**

11.1. Not applicable.